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Attorney for Plaintiff RONALD KEYSER

FILED
2008 AUG 29 PM 12:53
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY YNUIT DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RONALD KEYSER, an individual
Plaintiff,

v.

JOHN E. POTTER, POSTMASTER
GENERAL, UNITED STATES
POSTAL SERVICE, and DOES 1
Through 50, inclusive,
Defendant.

CIVIL NO.: '08 CV 1590 WQH CAB

COMPLAINT FOR:

UNLAWFUL EMPLOYMENT
DISCRIMINATION BASED ON RACE
(42 USC §2000e, *et seq.*)

JURY TRIAL DEMANDED

Plaintiff RONALD KEYSER ("Keyser" or "Plaintiff"), for his complaint alleges as follows:

1. Plaintiff brings this action pursuant to the provisions of 42 USC §2000e, *et seq.* ("The Civil Rights Act") to obtain such legal and equitable relief as will effectuate the purposes of the aforementioned statute.

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 and 29 USC § 62(c)).

3. Venue in the United States District Court for the Southern District of California is proper under 28 U.S.C. § 1391(b).

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1 **THE PARTIES**

2 4. Plaintiff Ronald Keyser ("Plaintiff" or "Keyser") is an individual residing in
3 the State of California, County of San Diego.

4 5. Plaintiff is informed and believes and thereon alleges that defendant United
5 States Postal Service ("Defendant" or "the USPS") is, and all times relevant herein was, a
6 public entity established by the Executive Branch of the United States Government.

7 **PROCEDURAL AND FACTUAL BACKGROUND**

8 6. Plaintiff is a member of the protected class of race under under 42 USC
9 §2000e, *et seq.* ("the Civil Rights Act").

10 7. On or about September 1995 Plaintiff became employed with the USPS. At
11 all times herein relevant, Plaintiff's position title was Letter Carrier, Grade Level PS-6.

12 8. Plaintiff is Caucasian. At all times herein relevant, most of Plaintiff's co-
13 workers and all persons in Plaintiff's managerial chain of command were of African-
14 American or other-than-Caucasian racial heritage.

15 9. At all times herein relevant, Plaintiff was aware of other co-workers and
16 managers who used their assigned USPS gas cards to purchase fuel for their personal
17 vehicles. Plaintiff was aware that these persons were reprimanded for the unauthorized use
18 of their gas cards and, in some cases, moved to other work locations, but did not have their
19 employment with the USPS terminated. Plaintiff was also aware that persons who were
20 reprimanded but not terminated were of a racial heritage other than Caucasian.

21 10. Plaintiff enjoyed a reputation of a good, honest, reliable and hard-working
22 employee during the pendency of his employment with the USPS.

23 11. In or about September 2007, Plaintiff was confronted by his management with
24 allegations of unauthorized use of his assigned USPS gas card. Plaintiff admitted to the
25 unauthorized use of the gas card and expressed remorse and embarrassment for his
26 temporary lapse in judgment.

27 12. On or about October 15, 2007, the USPS issued a Notice of Proposed
28 Removal from the Postal Service ("Removal Notice") to Plaintiff.

1 13. On or about November 15, 2007, the USPS sent a Letter of Decision
2 ("Decision Letter") to Plaintiff, informing him that his employment with the USPS would
3 terminate effective November 23, 2007. Plaintiff thereafter participated in the Grievance &
4 Arbitration process wherein, under duress, an agreement that Plaintiff would resign effective
5 January 1, 2008 was reached.

6 14. Plaintiff is informed and believes, and thereon alleges, that the termination of
7 his employment with the USPS was excessive and abusive, and not in keeping with the level
8 of reprimand given by the USPS to other employees who committed the same offense as
9 Plaintiff.

10 15. Plaintiff is informed and believes, and thereon alleges, that similarly situated
11 employees, all of whom were of racial heritage other than Caucasian, were not terminated,
12 and were given preferential treatment based on their race.

13 16. Plaintiff believes and thereon alleges that persons making the decision on the
14 level of reprimand that would be appropriate for Plaintiff made the decision to mete out a
15 much harsher and excessive punishment to Plaintiff through the termination of his
16 employment based on his race (Caucasian).

17 17. The Civil Rights Act expressly prohibits discrimination based on race, among
18 other things. Plaintiff believes and thereon alleges that the USPS considered his race and
19 discriminated against him thereon in making the decision to terminate his employment.

20 18. On on about March 31, 2008, Plaintiff filed a complaint for discrimination
21 with the Equal Employment Opportunity Commission ("EEOC") and against the Post Office
22 based on his race, Case No. 4F-920-0053-08 (The Discrimination Complaint").

23 19. On or about July 30, 2008, The EEOC issued it Final Agency Decision, and
24 granted Plaintiff the right to bring suit in United States District Court, who timely files this
25 action.

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28 ///

COUNT I

Unlawful Employment Discrimination Based on Race

(42 USC §2000e , *et seq.*)

20. Plaintiff incorporates herein by references paragraphs 1 through 19 of this complaint as though fully set forth herein.

21. Plaintiff's employment with the USPS was terminated on or about January 1, 2008, after which Plaintiff filed a complaint for employment discrimination based on his race (Caucasian).

22. Race is a protected class under 42 USC §2000e , *et seq.*

23. Plaintiff's claims of employment discrimination based on race are supported by the acts alleged herein.

24. As a result of Defendant's discriminatory acts, Plaintiff has suffered economic and other losses, including, but not limited to, loss of gainful employment, lost earnings, loss of leave time and other employment benefits, lost retirement benefits and privileges, and damages for emotional distress, humiliation and mental anguish, in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) in compensatory damages.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for relief as follows:

1. For reinstatement to his position as Letter Carrier with the USPS, with full rights and benefits as though no interruption in his employment tenure had occurred;
2. For compensatory damages, including, but not limited to, lost earnings, lost leave time and other benefits including lost retirement benefits and privileges, damages for emotional distress, humiliation and mental anguish, all in an amount not less than Five Hundred Thousand Dollars (\$500,000.00).
3. For back pay retroactive to the date that Plaintiff's employment was terminated by the USPS;

4. For reasonable attorneys fees;
5. For costs of suits;
6. For such other and further relief as the Court may deem appropriate.

August 28, 2008

LAW OFFICES OF DOUGLAS E. GEYMAN

By: 

Douglas E. Geyman, Esq.

Attorney for Plaintiff RONALD KEYSER

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED

I. (a) PLAINTIFFS

RONALD KEYSER

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DOUGLAS E. GEYMAN, ESQ. (SBN 159417) (619) 232-3533
750 B St., Ste 2635, San Diego, CA 92101

DEFENDANTS

John E. Potter, et al

County of Residence of First Listed Defendant San Diego
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'08 CV 1590 WQH CAB

2008 AUG 29 PM 12:49

CLERK U.S. DISTRICT COURT
San Diego DISTRICT OF CALIFORNIA

DEPUTY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|---------------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Section 2000c

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/28/2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

15465

AMOUNT

\$35000

APPLYING IFP

JUDGE

MAG. JUDGE

TB 08/29/08

CA

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

154565 - MB
* * C O P Y * *
August 29, 2008
12:52:05

Civ Fil Non-Pris

USAO #: 08CV1590 CIVIL FILING

Judge.: WILLIAM Q HAYES

Amount.:

\$350.00 CK

Check#: BC4028

Total-> \$350.00

FROM: RONALD KEYSER VS
JOHN E POTTER, ET AL